

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, September 2, 2003

Division Two

**A098103 -- The People v. Gregory Lee Ellison.**

**A101964 -- In re Gregory Lee Ellison, on Habeas Corpus.**

The judgment is reversed. Judge Cissna's order of February 25, 2002, revoking appellant's probation, sentencing him to state prison, and ordering him to pay restitution in the amount of \$800 is vacated and the matter is remanded for sentencing by superior court Judge Harold E. Neville, Jr. The petition for writ of habeas corpus is denied. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A094260 -- The People v. Andre Payton.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Five

**A101043 -- The People v. Michael Anthony Kilgore.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, September 3, 2003

Division Two

**A100582 -- The People v. Jeffrey T. Gorden.**

Accordingly, we reverse that portion of the judgment prohibiting the use of medical marijuana pursuant to the prescription of a licensed physician as a condition of probation and remand with directions to reconsider the condition that appellant not possess or use marijuana for medicinal purposes even with a prescription. Kline, P.J. I Concur: Ruvolo, J. (See dissenting opinion by Haerle, J.) (Not for Publication.)

**A101732 -- The People v. Faith Rigolosi.**

**A102488 -- In re Faith Rigolosi, on Habeas Corpus.**

The petition for writ of *coram vobis* is denied. The appeal is dismissed on the grounds that only those postjudgment orders are appealable that affect the substantial rights of the party (§ 1237, subd.(b)). On the face of the record appellant has no right to relief under either of the statutes at issue and therefore has no basis for any such appeal. (See *People v. Gallardo* (2000) 77 Cal.App.4th 971, 985.) Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A097629 -- Cheryl Yoshimura Thompson et al. v. Mt. Diablo Unified School District et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Five

**A101076 -- Suzanne N. Lindelli et al. v. Town of San Anselmo et al.; Marin Sanitary Service, R.P.I.**

The order denying the petition for a writ of mandate was in error. We reverse the trial court judgment and remand the case to the trial court for further proceedings in accord with this decision. Appellants are awarded their costs. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

Thursday, September 4, 2003

Division Three

**A100899 -- Clifford Herbstman et al. v. Manuela Freeman et al.**

The post judgment order is affirmed. Herbstman shall bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A100962 -- The People v. Adolfo Depaz Tavira.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A100913 -- Colin C. Wong v. Keith Freitas et al.**

The judgment is affirmed. Respondent to recover costs, including reasonable attorney fees, on appeal. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, September 5, 2003

Division One

**A101862 -- In re Edwin Anderson, on Habeas Corpus.**

By the Court:\* Therefore, the petition for writ of habeas corpus is granted to the extent that the July 21, 2000 judgment in *People v. Edwin Anderson* (Super. Ct. Solano County, 1991, No. FC30309) is vacated, and the April 2, 1993 finding of not guilty by reason of insanity in that case is reinstated. Edwin Anderson shall be promptly transferred to an appropriate locked facility consistent with the April 2, 1993 NGI finding. This opinion is final for all purposes immediately upon filing, and the clerk of this court shall immediately issue the remittitur herein. (See *Ng. v. Superior Court* (1992) 4 Cal.4th 29, 34, fn. 1; Cal. Rules of Court, rule 25(b).) (Not for Publication.)

\*Before Marchiano, P.J., Stein, J., and Swager, J.

**A100300 -- In re Hyacinth F. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Raymond F.**

The Court: It is ordered that the opinion filed herein on August 18, 2003 be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

Division Five

**A100983 -- In re Ethan K., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Melissa K.**

The appeal is dismissed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A101996 -- The People v. Lacy Winzer.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, September 8, 2003

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Margulies, J., and F. Abad, Deputy Clerk.

A099172     The People,  
              v.  
              Rebecca Susan Moline.  
Cause called and argued by Paul R. Kleven, counsel for appellant, and Michele Swanson, counsel for respondent. Cause ordered submitted.

A099047     The People,  
              v.  
              Sandra Fay Taylor.  
Cause called and argued by Victor Morse, counsel for appellant, and Stan Helfman, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.

A100563     James McEuin,  
              v.  
              Golden Gate Drywall.  
Cause called and argued by Diane Abraham, counsel for appellant, and Sarah Valentine, counsel for respondent. Cause ordered submitted.

A095614     M. Renee Prior,  
A097693     v.  
              Volkswagen of America, Inc.

A095640     M. Renee Prior,  
A097697     v.  
              Allied Signal, Inc.  
Cause called and argued by David Rice, counsel for appellant Volkswagen of America, Inc., Alan Lazarus, counsel for appellant Allied Signal, Inc., and Daniel Smith, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, September 8, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; and B. Robbins, Deputy Clerk.

A090611     The People,  
              v.  
              Anthony Reed.  
Cause called and argued by Mark Farbman, counsel for appellant, and René Chacón, counsel for respondent. Cause ordered submitted.

A100809     The People,  
              v.  
              Marcel Barnes.  
Cause called and argued by René Chacón, counsel for appellant, and Christopher F. Gauger, counsel for respondent. Cause ordered submitted.

A100821     The People,  
              v.  
              Rick Walter Belfiore.  
Cause called and argued by Jonathan D. Soglin, counsel for appellant, and Michael Banister, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Marchiano left the bench and Justice Margulies joined the bench. Acting Presiding Justice Stein presided over the remainder of the afternoon calendar.

A100145     In re Darrion C., et al.  
              Social Services Agency,  
              v.  
              Darrion C., et al.  
Cause called and argued by Janet G. Sherwood, counsel for appellants, and Janice Amenta, counsel for respondent. Cause ordered submitted.

A100704     Pauluine Bauer, et al.,  
                 v.  
                 W. John Miottel, Jr.  
                 Cause called and argued by Jeffrey B. Kirschenbaum, counsel for  
                 appellant, and Thomas Murphy, counsel for respondents.

A098307     Donald Williams,  
                 v.  
                 Syed Ali Husain.  
                 Cause called and argued by James J. Ficenec, counsel for appellant, and  
                 Thomas J. LaLanne, counsel for respondent, via teleconference. Cause  
                 ordered submitted.

Court adjourned.

No cases will be argued on September 9, 2003.

Monday, September 8, 2003

Division Two

**A100455 -- David Grassi v. Demas Yan.**

The judgment is affirmed. Yan is awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A103136 -- Napa River Reclamation District #2109 v. Terence Keenan.**

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extension of time, and having failed to apply for relief from default, the appeal filed on June 18, 2003 is dismissed. (See Cal. Rules of Court, rule 8(b).) Kline, P.J.



Tuesday, September 9, 2003

Division One

**A100467 -- In re Destine H., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Michael H. et al.**

The order terminating appellants' parental rights is reversed for the sole and limited purpose of enabling a remand to the juvenile court for the filing of the notices and return receipts, if not already filed, and for the court to determine from the record, at a properly noticed hearing, whether ICWA notice was sufficient. If the court makes that determination, the order terminating parental rights shall be reinstated. If the court finds that notice was insufficient, the court must ensure that sufficient notice is made. And as noted, if from tribal notice the court should determine that Destine is an Indian child covered by ICWA, the court must proceed accordingly. This remand, by itself, shall have no effect on any issue regarding the custody of Destine, or any issue in the proceedings other than the sufficiency of notice. We direct the juvenile court to comply with this remand within the earliest possible time. Marchiano, P.J. I Concur: Stein, J. (See dissenting opinion by Swager, J.) (Not for Publication.)

Division Two

**A098568 -- Khai Huynh v. Thuan Nguyen Vu et al.**

The judgment in favor of Broker on his cause of action against Husband for intentional interference with contract is reversed. As the parties have settled the remaining aspects of the case, this opinion does not address or affect any other portion of the judgment. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication.)

Wednesday, September 10, 2003

Division One

**A101175 -- The People v. Tito Manuel.**

Our modification of the judgment should be reflected in the abstract of judgment. We, therefore, order the clerk of the Superior Court of Solano County to prepare a corrected, amended abstract of judgment reflecting a restitution fine of \$200 and a parole revocation fine of \$200. As so modified, the judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098196 -- The People v. Larry McDougal.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A102196 -- In re Eric F., a Person Coming Under the Juvenile Court Law. The People v. Eric F.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A102891 -- In re Crystal G. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. George G.**

The appeal is dismissed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Wednesday, September 10, 2003 (continued)

Division Three

**A100102 -- David Furia v. Hugh N. Helm III.**

By the Court: Order Modifying Opinion and Denying Certifying Opinion for Publication. It is ordered that the opinion filed herein on August 29, 2003, be modified in the following particular: (See order.) There is no change in the judgment. The request to withdraw certification for publication is denied. Corrigan, Acting P.J. (Certified for Publication.)

**A098926 -- The People v. Charles Edward Miles.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

**A099051 -- The People v. David Garland Anderson.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A100850 -- In re Phillesha B. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Phillip B.**

The order denying Phillip's petition under section 388 is affirmed. The portion of section 366.26 order providing that visitation between Phillip and the minors shall be "[r]easonable as determined by the legal guardian" is vacated, and the matter is remanded for reconsideration of the issue of visitation consistent with this opinion. The section 366.26 order is otherwise affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, September 10, 2003 (continued)

**A097143 -- Global Interprint, Inc. v. Larry Burton et al.; Ken Coburn.**

**A097706 -- Global Interprint, Inc. v. Larry Burton et al.**

The judgment is reversed and remanded with directions to award Global prejudgment interest pursuant to Civil Code section 3287, subdivision (a), and to enter a new judgment reflecting this award. The new judgment shall reiterate the former judgment in all other respects. All parties shall bear their own costs on appeal. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A098756 -- Raymond J. Mason et al. v. Retirement Board of the City and County of San Francisco et al.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

Thursday, September 11, 2003

Division Two

**A102891 -- In re Crystal G. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. George G.**

The opinion filed herein on September 10, 2003, is modified to add, before the disposition heading on page 5, the following paragraph, which does not effect a change is the judgment (rule 24(b)): Moreover, a recently filed and unopposed request by respondent to augment the record--which we hereby grant--shows that on December 6, 2002, father was mailed a written notice of entry of judgment and notice of right to appeal. Thus any defect in the oral advisement is completely inconsequential. Lambden, Acting P.J.

**A102902 -- Maria V. v. The Superior Court of Marin County; Marin County Department of Health and Human Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; § 366.26, subd. (l) [precluding further challenge to these orders by petitioner in any subsequent appeal].) As the section 366.26 permanency planning hearing is set for September 16, 2003, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A098699 -- The People v. Ken Godfred Verduzco.**

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on August 20, 2003, be modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. Kline, P.J. (Not for Publication.)

Division Three

**A102008 -- Joel Baker v. Provident Central Credit Union.**

The motion to dismiss the appeal is granted, and the appeal is hereby dismissed. As a result, the motion to strike exhibits and defective reply brief filed by Provident is moot. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday, September 11, 2003 (continued)

**A091576 -- The People v. Ted Vu Nguyen, et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Thursday, September 11, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan.J., Parrilli J., Pollak J and C. Turner, Deputy Clerk.

A10050     March Seidenfeld,  
              v.  
              Paul N. Halvonik,  
Cause called and argued by Fred James Hiestand, counsel for appellant, and  
Lawrence J. Koncz, counsel for respondent. Cause ordered submitted.

Justice Parrilli left the bench and Justice McGuiness took his place on the bench.

A101556     The People,  
              v.  
              Larry Wade,  
Cause called and argued by John James Jordan, counsel for appellant, and  
Bridget Billeter, counsel for respondent. Cause ordered submitted.

A099192     Lincoln Property Company, N.C., Inc.,  
              v.  
              Travelers Indemnity Company of Illinois,  
Cause called and argued by Kevin Michael McGuire, counsel for appellant,  
and Michael W. Melendez, counsel for respondent. Cause ordered  
submitted.

Justice Corrigan left the bench. Justice Parrilli took her place on the bench.

A099390     In re William V.,  
              The People,  
              v.  
              William V.,  
Cause called and argued by Kimberly Benson counsel for appellant, and  
Ryan B. McCarroll, counsel for respondent. Cause ordered submitted.

- A100602 G.A. Skip Moore,  
v.  
James A. Griffin,, et al.,  
Cause called and argued by G.A. Moore appellant in pro-per, and John A. McGuinn, Raymond Bacerdo, Natalie R. Williams, Desmond Rogers, counsel for respondents. Cause ordered submitted.
- A098773 The People,  
v.  
Michael Ray Jiles,  
Cause called and argued by David Yale Stanley, arguing via tele-conference, counsel for appellant, and Dorian Jung, counsel for respondent. Cause ordered submitted.
- A100528 Norman A. McKenzie,  
v.  
Sien Lee,  
Cause called and argued by Sien Lee appellant in pro-per, and Susan Bender, counsel for respondent. Cause ordered submitted

court adjourned



Thursday, September 11, 2003 (continued)

Division Four

**A098571 -- The People v. Yinpres Ignacio Vega.**

By the Court: It is ordered that the opinion filed herein on August 28, 2003, be modified by deleting the words “count 5” and replacing them with the words “count 8” in the first paragraph under III. Disposition. This modification does not effect a change in the judgment. Sepulveda, Acting P.J. (Not for Publication.)

Friday, September 12, 2003

Division One

**A100704 -- Pauline M. Bauer et al. v. W. John Miottel, Jr.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A099172 -- The People v. Rebecca Susan Moline.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A103151 -- In re S.C., a Person Coming Under the Juvenile Court Law. Nancy R. v. Superior Court of State of California; Contra Costa County Children and Family Services Bureau, R.P.I.**

The petition for extraordinary relief is denied on its merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order setting a hearing under section 366.26. (See § 366.26, subd. (1)(2).) Since the permanency planning hearing is set for October 15, 2003, this opinion is final as to this court forthwith. (Rule 24(b)(3).) Ruvalo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A103644 -- East County Medical Group, Inc. v. The Superior Court of Contra Costa County; Health Net, Inc., R.P.I.**

By the Court:\* We have reached our decision after notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) ECMG's right to relief is obvious, and no purpose would be served by oral argument. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35.) Let a peremptory writ of mandate issue commanding respondent court to enforce the injunction issued on March 10, 2003, in *East County Medical Group, Inc. v. Health Net, Inc.*, Contra Costa County Superior Court case no. C03-00339. ECMG is also awarded its costs in this writ proceeding. (Cal. Rules of Court, rule 56.4.) (Not for Publication.)

\*Before Kline, P.J., Haerle, J., and Ruvalo, J.

Friday, September 12, 2003 (continued)

**A099902 -- Estate of Vera Perrott Vietor, Deceased.**

Accordingly, we conclude that the Perrotts are appealing from nonappealable orders and hereby dismiss the appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A098995 -- John Cook v. State Compensation Insurance Fund.**

By the Court: Since this court's August 29, 2003 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.

Monday, September 15, 2003

Division One

**A099426 -- The People v. Debra Kay Schmidt.**

When the instructions are viewed as a whole and the presentation of the case is considered, we conclude that it is not reasonably likely the jurors believed they could find defendant guilty upon proof by a preponderance of the evidence of her commission of uncharged acts; instead, the jury would have understood that a conviction based upon inferences to be drawn from defendant's prior offenses demanded proof beyond a reasonable doubt. (*People v. Reliford, supra*, 29 Cal.4th 1007, 1016; *People v. Hill* (2001) 86 Cal.Ap.4th 273, 276-279.) Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A100257 -- The People v. Ricardo Duran.**

The matter is remanded for further sentencing proceedings consistent with this opinion. In all other respects, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A098103 -- The People v. Gregory Lee Ellison.**

**A101964 -- In re Gregory Lee Ellison, on Habeas Corpus.**

By the Court: The opinion in the above-entitled matter filed on September 2, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Kline, P.J. (Certified for Publication.)

**A103179 -- Ana Morales v. Associates First Capital Corp., et al.**

By the Court: The motion to dismiss the Jackson appeal is granted and said appeal is ordered dismissed. Kline, P.J.

Monday, September 15, 2003 (continued)

Division Three

**A099044 -- The People v. Jorge Peralta.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

Tuesday, September 16, 2003

Division One

**A100255 -- The People v. Jose Alfredo Garcia.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A101685 -- The People v. Rory Salas Santos.**

By the Court: The Court having been notified of the appellant's death on August 20, 2003, as verified by a copy of the death certificate, it is ordered that all proceedings in this matter be permanently abated. The Contra Costa Superior Court is directed to vacate the judgment of conviction and dismiss the information. Marchiano, P.J.

Division Two

**A096358 -- The People v. Rodney Joel Blach.**

**A101442 -- In re Rodney Joel Blach on Habeas Corpus.**

The judgment is reversed as to the arson enhancement which Blach received for committing "arson by use of a device designed to accelerate the fire or delay ignition," and this matter is remanded to the trial court for disposition of that enhancement allegation and for resentencing. In all other respects, the judgment is affirmed. The petition for writ of habeas corpus is denied. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A102731 -- Oliver L.F. Asser v. The Superior Court of San Francisco; Terra Nova Trading, LLC, and Manhattan Beach Trading, Inc., R.P.I.**

By the Court: The petition for rehearing is denied. (McGuiness, P.J., Corrigan, J. & Parrilli, J. participating.) McGuiness, P.J.

Tuesday, September 16, 2003 (continued)

**A102735 -- Oliver L.F. Asser v. The Superior Court of San Francisco County; Cybertrader, Inc., and The Charles Schwab Corporation, R.P.I.**

By the Court: The petition for rehearing is denied. (McGuiness, P.J., Corrigan, J. & Parrilli, J. participating.) McGuiness, P.J.

**A100602 -- G.A. Skip Moore v. James A. Griffin et al.**

The judgment is affirmed. Defendants are to recover their costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

**A103255 -- Brenda S. v. The Superior Court of Solano County; Solano County Department of Health and Social Services et al.**

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) Because the section 366.26 hearing is set for October 24, 2003, our decision is final as to this court immediately. (Rule 24(b)(2)(A).) Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, September 17, 2003

Division One

**A100258 and A097784 -- American Financial Services Association v. City of Oakland et al.**

We therefore reverse the judgment insofar as it orders severance of the language exempting federally chartered lenders from its coverage and we dismiss as moot AFSA's appeal from the trial court's order denying a preliminary injunction against enforcement of the Ordinance (appeal No. A097784). In appeal No. 100258, the judgment is reversed insofar as it orders severance of the portion of the Ordinance exempting federally chartered lenders from its coverage. In all other respects, the judgment is affirmed. Appeal No. A097784 is dismissed as moot. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication.)

Division Two

**A100224 -- The People v. Robert M. Cereghino.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A102006 -- The People v. Charles Clifford Hogue.**

The appeal is dismissed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A099441 -- Service Employees International Union, Local 790 v. San Francisco Bay Area Rapid Transit District.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)



Wednesday, September 17, 2003 (continued)

Division Three

**A099192 -- Lincoln Property Company, N.C., Inc. v. The Travelers Indemnity Company of Illinois et al.**

The judgment is reversed insofar as it awards costs of suit to Travelers, and the matter is remanded with instructions to designate Lincoln as the prevailing party under Code of Civil Procedure section 1032. In all other respects, the judgment is affirmed. The parties shall bear their respective costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A100505 -- Marc Seidenfeld v. Paul N. Halvonik.**

The order denying the special motion to strike is affirmed. Seidenfeld shall recover his costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A099390 -- In re William V., a Person Coming Under the Juvenile Court Law. The People v. William V.**

The clerk of the Alameda County Superior Court shall modify the minute order entered on April 29, 2002, to reflect imposition of the special and standard gang convictions, rather than the standard drug conditions, of probation. In all other respects, the judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

Wednesday, September 17, 2003 (continued)

Division Four

**A103660 -- Alexis Bass v. The Superior Court of Contra Costa County; Ramon Luis Johnson, R.P.I.**

We notified all parties that we might act by issuing our peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) The petition is unopposed, and no useful purpose would be served by issuance of an alternative writ, further briefing and oral argument. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1240-1241.) Therefore, let a peremptory writ of mandate issue, commanding respondent, Contra Costa County Superior Court, in *Bass v. Johnson* (Super. Ct. Contra Costa County, 2003, No. D03-02180), to vacate its August 14, 2003, order compelling Alexis Bass to submit to drug testing. The stay previously imposed shall remain in effect until the remittitur issues. Petitioner Bass shall recover her costs. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(2).) Sepulveda, Acting P.J.

I Concur: Rivera, J. (Not for Publication.)

**A097996 -- The People v. Vance Larcell Rider.**

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A100576 -- Teresa Jazowska Zurek et al. v. Yellow Cab Cooperative, Inc. et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Thursday, September 18, 2003

Division One

**A102385 -- The People v. Lance Nelson.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A098103 -- The People v. Gregory Lee Ellison.**

**A101964 -- In re Gregory Lee Ellison, on Habeas Corpus**

By the Court: The order in the above-entitled matter filed on September 15, 2003, is hereby modified as follows: (See order.) Kline, P.J. (Certified for Publication.)

**A099535 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company; Grand Opus, Inc.**

The judgment is affirmed. Golden Eagle is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A100670 -- The People v. Anthony Joseph Bares.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A100681 -- The People v. Kevin Cunningham.**

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A101556 -- The People v. Larry Wade.**

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday, September 18, 2003 (continued)

Division Four

**A099626 -- The People v. Jimmy C. Rodgers.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A097299 -- Allan C. Vinum et al. v. Exxonmobil Corporation.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Swager, J.\* (Not for Publication.)

\*Associate Justice of the Court of Appeal, First appellate District, Division One, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A102370 -- In re Kevin R., a Person Coming Under the Juvenile Court Law. The People v. Kevin R.**

The order adjudicating appellant a continued ward of the court and placing him at CYA is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A103594 -- Richard E. Seigle v. Humboldt Buggy & ATV Association, Inc.**

By the Court:\* Respondent's motion, filed herein on August 27, 2003, to dismiss the above entitled appeal is granted and the appeal is dismissed. Respondent's motion for sanctions is denied. Jones, P.J.

\*Jones, P.J., Stevens, J. and Gemello, J., participating.

Friday, September 19, 2003

Division One

**A102060 -- In re Jessica A., a Person Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. John W.**

Accordingly, and in light of the Department's concession of error, we must order a *limited* remand to the juvenile court for the sole purpose of complying with the ICWA notice provisions. The order granting termination of parental rights, which is otherwise legally unchallenged, must be reversed to enable such a remand. The order terminating appellants' parental rights is reversed for the sole and limited purpose of enabling a remand to the juvenile court for compliance with the notice provisions of ICWA. If, after proper notice, the Cherokee Tribe declines to intervene in the dependency proceedings, the order terminating parental rights shall be reinstated. We direct the juvenile court to comply with this remand within the earliest possible time. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A099047 -- The People v. Sandra Fay Taylor.**

The sentence on count two is ordered stayed pursuant to section 654. The order imposing and staying the sentence on count three is reversed and the matter is remanded for the trial court's determination of the appropriate concurrent or consecutive sentence on count three. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A101324 -- In re Destinee P., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services v. Joanna D.**

The order terminating parental rights is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, September 19, 2003 (continued)

Division Three

**A098322 -- The People v. Mark Anthony Jones.**

The conviction is affirmed. The sentence is vacated and the matter is remanded for resentencing applying the factors set forth in *People v. Williams* (1998) 17 Cal.4th 148. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A100528 -- Sien Lee v. The Superior Court of Alameda County; Norman A. McKenzie, R.P.I.**

The notice of appeal is deemed a petition for a writ of mandate and the petition is denied. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A100144 -- In re Brandon E., a Person Coming Under the Juvenile Court Law. The People v. Brandon E.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A101743 -- The People v. James Bryant Richmond.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A101740 -- The People v. Sheila Renee Burrows.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J. Gemello, J. (Not for Publication.)

Monday, September 22, 2003

Division One

**A095614, A095640, A097693, A097697 -- John Paul Kima, as Executor, etc. v. Volkswagen of America, Inc. et al.**

By the Court: On the Court's own motion, the above-referenced appeals are hereby consolidated for purposes of decision. Margulies, Acting P.J.

**A095614, A095640, A097693, A097697 -- John Paul Kima, as Executor, etc. v. Volkswagen of America, Inc. et al.**

The judgment appealed from in appeal Nos. A095614 and A095640 is reversed and the case is remanded to the trial court with directions to (1) enter a new judgment notwithstanding the verdict in favor of Allied, and (2) enter a new judgment consistent with the jury's verdict as to Volkswagen. We dismiss appeal No. A097697 as moot. In appeal No. A097693, we remand the case to the trial court with directions to enter a new order setting forth the costs and expert witness fees for which Volkswagen is now individually liable. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A098307 -- Donald Williams v. Syed Ali Husain.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**JCCP No. 4049 -- In re Retirement Cases.**

**A098137 & A101036 -- Teamsters Union Local 856, AFL-CIO et al. v. Board of Retirement of the San Mateo County Employees' Retirement Association et al.**

**A101201 -- Randell E. Francis et al. v. Board of Retirement of the Stanislaus County Employees' Retirement Association et al.**

The orders awarding attorney fees are affirmed. Appellants are to pay costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Monday, September 22, 2003 (continued)

Division Three

**A101899 -- Property Rentals Only, Inc., et al. v. Al Bower.**

The appeal is dismissed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A100085 -- The People v. Stanley Cameron Scott.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

**A100448 -- In re Lamont D., a Person Coming Under the Juvenile Court Law. The People v. Lamont D.**

The order adjudicating appellant a ward of the court and placing him on probation in his parents' home is affirmed. The matter is remanded for the trial court to redetermine appellant's maximum period of confinement consistent with the views expressed herein. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A100548 -- The People v. Richard Houston III.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A102475 -- In re P.P., a Person Coming Under the Juvenile Court Law. The People v. P.P.**

The orders declaring the minor a ward of the court and ordering her to live with her mother, but reside with her godmother, are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A101618 -- The People v. Michael Anthony Turner.**

Accordingly, the appeal is dismissed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)



Monday, September 22, 2003 (continued)

Division Five

**A100804 -- Russell Scott Kashian v. State of California et al.**

The judgment sustaining the State's demurrer on the ground of untimeliness is reversed. The case is remanded with instructions that the trial court consider any other grounds for demurrer asserted by the State not inconsistent with this opinion. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, September 23, 2003

Division Two

**A100582 -- The People v. Jeffrey Thomas Gordon.**

By the Court: Since this court's September 3, 2003 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Kline, P.J.

**A098471 -- The People v. Donnell McGilberry.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

**A102090 -- C & W Asset Acquisition LLC v. Robert Falche.**

No appeal lies from the denial of a motion for reconsideration. (*In re Jeffrey P.* (1990) 218 Cal.App.3d 1548, 1550, Fn. 2.) Accordingly, the appeal is dismissed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A103566 -- Jonathan C., Sr. v. The Superior Court of Sonoma County; Sonoma County Department of Human Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A100269 -- Sav Harasymiv v. Veterinary Surgical Associates et al.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Tuesday, September 23, 2003 (continued)

**A100103 -- Norman Heller et al. v. Narinder Pal et al.**

That portion of the judgment (¶ 6) awarding plaintiffs attorney fees of \$21,118.50 is reversed. The judgment is affirmed in all other respects. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, September 23, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Arnold Stamps, Bailiff.

A099786 Pamela Williams

v.

Jeffrey Schweitzer

Cause called. Ann Van dePoel argued for appellant Williams. Garrett C. Dailey argued for respondent. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consists of Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A100621 Service Employees International Union, Local No. 616 et al.

v.

Civil Service Commission of Alameda County

Cause called. Shirley Lee argued for appellants SEIU et al. Donna R. Ziegler argued for respondent. Cause submitted.

A100778 Golden Eagle Insurance Company

v.

West Pacific Industries

Cause called. Randall Sherman argued via teleconference for appellant West Pacific Industries. Stacey Pratt argued for respondent. Cause submitted.

The court recessed at 10:36 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, September 23, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Joe Frasier, Bailiff.

A098221     People  
              v.  
              Cheo Pou Saechao  
Cause called. Carol Strickman argued for appellant Saechao. Ryan B. McCarroll argued for respondent. Cause submitted.

A094198     People  
              v.  
              Richard Brandon Hall  
Cause called. Eric Multhaup argued for appellant Hall. Bruce Ortega argued for respondent. Cause submitted.

At this point the Court reconstituted itself for the next cause. The Court for the next cause consisted of Kay, P.J., Reardon, J., and Rivera, J.

A100211     People  
              v.  
              Sean Joel Marks  
Cause called. Kenneth Wikle teleargued for appellant Marks. Aileen Bunney argued for respondent. Cause submitted.

The Court adjourned at 2:43 p.m.

Wednesday, September 24, 2003

Division One

**A100647 -- In re Andrew D., a Person Coming Under the Juvenile Court Law. The People v. Andrew D.**

The judgment (order granting probation) is reversed, and the cause is remanded for further proceedings consistent with this opinion. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A100986 -- The People v. Kim Keung Gee.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A101647 -- In re the Marriage of Sharon and Rigoberto Pena.**

The order denying the motion to set aside is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A102345 -- The People v. John Azzolino.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A099625 -- The People v. Robert James Compton.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A098995 -- John Cook v. State Compensation Insurance Fund.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Wednesday, September 24, 2003 (continued)

**A100102 -- David Furia v. Hugh N. Helm.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A103227 -- C.D. v. Superior Court of the County of Solano; Solano County Health & Social Services Department, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) As the section 366.26 hearing is set for October 16, 2003, our decision is final in this court immediately. (Cal. Rules of court, rule 24(b)(3).) Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A100989 -- The People v. Derrick Eugene Jackson.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A100170 -- California Healthcare Association v. Diana Bonta, as Director, etc.**

The judgment is affirmed. The matter is remanded to the trial court for a determination of the attorney fees as a part of costs to be awarded the Association pursuant to title 42 United States Code section 1988(b). Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, September 25, 2006

Division One

**A099974 -- The People v. David Felix Bernal.**

We affirm the judgment in case Nos. SC049309A and SC051689A. We directed the trial court to: (1) amend the abstract of judgment in both cases to reflect the fact that the Penal Code section 1202.4 restitution fine imposed in case No. SC049309A was paid; and (2) transmit a certified copy of the amended abstracts to the California Department of Corrections. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A100145 -- In re Darrion C. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Darrion C. et al.**

The juvenile court order appealed from is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A101959 -- Christopher Duong v. Fumiko Doi.**

The order appealed from is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A099794 -- Donald Levine et al. v. Blossom Lum Jang.**

The judgment is reversed. Costs to appellants. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)



Thursday, September 25, 2006 (continued)

Division Three

**A098773 -- The People v. Michael Ray Jiles.**

**A102679 -- In re Michael Ray Jiles, on Habeas Corpus.**

The two restitution fines imposed are ordered reduced to \$200 each, and the sentence imposed on count two is ordered stayed. In all other respects, the judgment and sentence imposed are affirmed, and the petition for writ of habeas corpus is denied. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

**A086991 -- Patricia Henley v. Philip Morris Inc.**

The judgment is affirmed in part and conditionally reversed in part as follows: The judgment is affirmed with respect to all issues except the amount of punitive damages. As to that issue the judgment is reversed for a new trial unless, within 30 days after our issuance of remittitur, plaintiff files with this court and the superior court a consent to the reduction of punitive damages to \$9 million. If plaintiff files such consent, the superior court shall modify the judgment accordingly and the judgment as so modified shall be deemed affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

**A101542 -- The People v. Glenn Ray Keel.**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A103726 -- Cynthia V. v. The Superior Court of Mendocino County; Mendocino County Department of Social Services, R.P.I.**

The petition is denied on its merits. (Cal. Rules of Court, rule 39.1B(o).) This opinion is final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3).) Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, September 25, 2006 (continued)

**A099786 -- Pamela Williams v. Jeffrey Schweitzer.**

The order is affirmed in part and reversed in part and remanded for further proceedings consistent with this opinion. The parties will bear their own costs on appeal. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A101470 -- In re Tramel H., a Person Coming Under the Juvenile Court Law. The People v. Tramel H.**

The juvenile court is directed to order the probation department to modify the subject probation report in accordance with the views expressed herein. The disposition order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A100952 -- Sequoia Union High School District v. Aurora Charter High School District.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

Friday, September 26, 2003

Division One

**A100563 -- James McEuin v. Golden Gate Drywall, Inc.**

The summary judgment is reversed. Plaintiff is entitled to costs.  
Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098633 -- The People v. Lambert Pabriaga.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J.,  
Margulies, J. (Not for Publication.)

**A090611 -- The People v. Anthony Jean Reed.**

The abstract of judgment shall be modified to strike the Penal Code section  
1202.45 fine. In all other respects, the judgment is affirmed. Stein, J. We  
Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A100434 -- In re Nicholas H., a Person Coming Under the Juvenile  
Court Law. Alameda County Social Services Agency v. Kimberly H.;  
Thomas G.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.  
(Certified for Publication.)

Division Three

**A099765 -- Patrick Campbell v. Maremont Corporation et al.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J.,  
Corrigan, J. (Not for Publication.)

Friday, September 26, 2003 (continued)

Division Four

**A103733 -- A Better Property Management Company et al. v. City of East Palo Alto et al.**

By the Court: Respondents' motion to dismiss this appeal is granted. Kay, P.J.

**A100211 -- The People v. Sean Joel Marks.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A097349 -- The People v. Daniel Patrick Hard.**

The judgment is reversed and remanded to the trial court for a new sentencing hearing, at which the trial court shall exercise its discretion under section 11379.8, subdivision (d) in deciding whether to strike the three-year enhancement provided by that section. Simons, J. We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

Monday, September 29, 2003

Division One

**A100821 -- The People v. Rick Belfiore.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A101959 -- Christopher Duong v. Fumiko Doi.**

By the Court: It is ordered that the opinion filed herein on September 25, 2003 be modified as follows: (See order.) There is no change in the judgment. Stein, Acting P.J. (Not for Publication.)

**A101885 -- The People v. Jeffrey Wayne French.**

The judgment of conviction is affirmed. The order directing defendant to pay restitution to USA Termite Control General Construction is reversed, and the cause is remanded with directions to enter a new order, directing defendant to pay appropriate restitution to the direct victims without regard to their having been reimbursed by the company. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A100464 -- In re Travis M., a Person Coming Under the Juvenile Court Law. The People v. Travis M.**

Accordingly, the judgment is modified to award appellant 713 days of custody credits. Upon remand, the clerk of the superior court is directed to amend the abstract of judgment to reflect the correction of the number of days of custody credits, and forward a certified copy of the amended abstract to the Department of Corrections. As so modified judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A101022 -- In re Kendall C., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Victor C. et al.**

The order is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Monday, September 29, 2003 (continued)

**A102455 -- In re Darren F., a Person Coming Under the Juvenile Court Law. The People v. Darren F.**

The orders adjudicating appellant a ward of the court and placing him on probation in his mother's home are affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A100685 -- In re Dariel A., a Person Coming Under the Juvenile Court Law. The People v. Dariel A.**

The jurisdictional order of August 20, 2002, and the dispositional order of September 30, 2002, are affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A103012 -- In re Vincent G., a Person Coming Under the Juvenile Court Law. The People v. Vincent G.**

The order placing appellant on probation is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A095937 -- The People v. Graham Roger-Lee De-Luis-Conti.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A098364 -- The People v. Darryl Wayne Hill.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A094663 -- Robert Lane v. National Airmotive Corporation.**

The judgment is affirmed. NAC shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Monday, September 29, 2003 (continued)

Division Four

**A101671 -- The People v. Clarence John Martin, Jr.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J.  
(Not for Publication.)

Division Five

**A101778 -- The People v. Isaac Esparza Cerna.**

The order revoking appellant's probation and the sentence imposed are affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A100510 -- The Kontrabecki Group, Inc., et al. v. The City of Livermore.**

The judgment of dismissal is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A101265 -- The People v. Raymond Howard Lawrence et al.**

The judgments are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A102514 -- The People v. Peter Jolivette.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.  
(Not for Publication.)

Tuesday, September 30, 2003

Division One

**A099263 -- The People v. Maxanne Tami.**

Accordingly, the judgment is reversed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A101472 -- In re Kendall C., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Victor C. et al.**

The order is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A101534 -- The People v. Steven Girard Doyel.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A100561 -- The People v. James Kelly Hewett.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A101972 -- The People v. Joseph David Prado.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A102557 -- The People v. Michael Henry Andrea.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)



Tuesday, September 30, 2003 (continued)

**A103087 -- Jaime D. v. The Superior Court of Contra Costa County; Contra Costa County, Children and Family Services Bureau, R.P.I.**

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 893-895 [written opinion on petition for extraordinary relief precludes reconsideration of or further challenge to orders in any subsequent appeal].) Because the section 366.26 hearing is set for October 1, 2003, our opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A098224 -- William Jackson v. United Parcel Service, Inc.**

The judgment for UPS is affirmed. The judgment for Jackson on the CFRA claim is reversed. Each party to bear their own costs. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A100000 -- The People v. Luis Alexander Duenas-Alvarez.**

As to defendant's felony sentence, the trial court is directed to modify the abstract of judgment to reflect 145 days of presentence custody credits. The clerk of the superior court shall forward a copy of the amended abstract of judgment to the Department of Corrections. As to defendant's misdemeanor, the credit for time served calculation should be modified to reflect 116 days. The judgment, as modified, is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A098047 -- William Jackson, et al. v. Ernie Brown.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A096261 -- Lance Russell v. Thomas Douvan.**

The order granting injunctive relief is reversed. Douvan shall bear his own costs on appeal. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

Tuesday, September 30, 2003 (continued)

**A103535 -- Elisabeth S. v. The Superior Court of San Francisco County; San Francisco Department of Human Services et al, R.P.I.**

**A103536 -- Maurice B., II v. The Superior Court of San Francisco County; San Francisco Department of Human Services et al., R.P.I.**

The petitions for extraordinary relief are denied on their merits. (See Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the permanency planning hearing is set for October 1, 2003, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24 (b)(3).) Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A100908 -- In re Maria C., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Edwin C.**

The order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A100090 -- The People v. Samuel Lee Davis.**

The judgment is reversed and the cause is remanded to the trial court for the sole purpose of resentencing. The judgment is affirmed in all other respects. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A094198 -- The People v. Richard Hall.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A102346 -- The People v. Donald Joseph Heiney.**

The order revoking appellant's probation is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, September 30, 2003 (continued)

**A101072 -- In re Angela L., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Brian L.**

The juvenile court order is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A100997 -- R.P. Diamonds & Gold Imports, Inc. v. Underwriters at Lloyd's London et al.**

The judgment is reversed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A100427 -- The People v. Randy Weathers.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A098598/A099700 -- Karim Ali, Sr. et al. v. 909 Geary Street LLC; Admiral Insurance Company.**

The orders denying Admiral's motions to intervene and to vacate the judgment are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

**A102343 -- The People v. Theodore Parr Bosworth.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A102295 -- The People v. Manuel Nathan Garcia.**

The order revoking appellant's probation in case number SCR-29908 and the judgment imposed in case number SCR-31605 are affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)